



US Army Corps  
of Engineers®  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

Date: August 14, 2001

Comment Period Ends: August 29, 2001

File Number: 200101408

In Reply Refer To: Paul Sneeringer at (978) 318-8491

Or by e-mail: paul.j.sneeringer@nae02.usace.army.mil

## AMENDED PUBLIC NOTICE:

From June 26, 2001 to July 26, 2001 the Corps of Engineers advertised a public notice regarding Mirant Kendall, LLC.'s planned expansion of the Kendall Square Station property. Subsequent to this public notice the applicant revised their application. The proposed near shore dolphin pilings were eliminated and a floating docking facility has been proposed. In addition, no riprap will be placed over the pipe.

Under the revised application, Mirant Kendall LLC. has requested a Corps of Engineers permit under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act to grade and to fill 0.8 acres of waters of the United States to install a 783 linear foot "cooling-water diffuser" outfall along the bottom of the Charles River as part of the Kendall Square Station expansion project at 265 First Street, Cambridge, Massachusetts. *A 62-foot long by 10-foot wide floating dock facility and a handicap-accessible ramp will be installed along the Cambridge bulkhead in order to protect the pipe.* In other areas, the diffuser pipe will be installed at least 17 feet below the normal pool elevation of the Charles River to avoid potential navigation impacts. During the installation of the diffuser pipe, sediment/erosion controls will be maintained to limit sediment migration out of the construction area. Water quality and thermal loading impacts associated with the outfall discharge are being evaluated separately under the NPDES licensing process. This project is described on the enclosed plans entitled "KENDALLSTATION EQUIPMENT UPGRADE PROJECT PROPOSED DIFFUSER DISCHARGE PIPE PLAN", in ten sheets, and dated "MAY 2001" and revised "JULY 2001".

This project will impact habitat areas of forage fish species eaten by summer flounder (*Paralichthys dentatus*) [juvenile and adults] and bluefish (*Pomatomus saltatrix*) [juvenile and adults]. Loss of this habitat may adversely affect these species; however the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding Essential Fish Habitat (EFH) conservation recommendations is being conducted and will be concluded prior to the final decision.

This project is located on the USGS Boston South quadrangle sheet at UTM coordinates 4691876N and 328826 E.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Paul Sneeringer at (978) 318-8491, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

SEE NEXT PAGE FOR  
DETAILS OF EVALUATION  
FACTORS

Karen Kirk Adams  
Chief, Permits & Enforcement Branch  
Regulatory Division

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity in the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties listed in, or eligible for listing in, the National Register of Historic Places, and no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

The following authorizations have been applied for, or have been, or will be obtained:

- ( X ) Permit, License or Assent from State.
- ( X ) Permit from Local Wetland Agency or Conservation Commission.
- ( X ) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

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If you would prefer not to continue receiving public notices, please check here ( ) and return this portion of the public notice to: U.S. Army Corps of Engineers – New England District, ATTN: Regulatory Branch, 696 Virginia Road, Concord, MA 01742-2751.

NAME:

ADDRESS: